

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

JUSTIN W. JENKINS

Plaintiff,

v.

CORTEVA, INC., et al.

Defendants.

CASE NO. 1:22-CV-1976-RLY-DLP

**DEFENDANTS' JOINT MOTION FOR
EXTENSION OF TIME TO RESPOND TO COMPLAINT
AND CONTINUANCE OF INITIAL PRETRIAL CONFERENCE**

Defendants Corteva, Inc. ("Corteva"), Syngenta Crop Protection AG, Syngenta Corporation, Syngenta Crop Protection, LLC (together, "Syngenta"), CHS Inc. ("CHS"), and Nutrien Ag Solutions, Inc. ("Nutrien") (collectively, "Defendants"), by and through their undersigned attorneys and pursuant to Fed. R. Civ. P. 6(b) and Local Rule 6-1(c), respectfully move to extend the time within which to answer, move or otherwise respond to the complaint to a date after disposition of Defendants' forthcoming motion to transfer (to be set by the transferee court, if the motion to transfer is granted, or by this Court, if the motion to transfer is denied); and to adjourn the initial pre-trial conference, currently set for December 6, and related Case Management Plan deadline of November 29, until after the disposition of Defendants' motion to transfer.¹

¹ In moving for an extension of time, Defendants expressly reserve, and do not waive, all rights and defenses, including with respect to personal jurisdiction.

ARGUMENT

1. This case is one of at least 11 related cases involving Corteva and Syngenta’s crop protection product loyalty programs filed in two different federal courts before four different district court judges and six different magistrates. The various complaints assert claims under Sections 1 and 2 of the Sherman Act, Section 3 of the Clayton Act, Section 5 of the FTC Act, and the state antitrust and consumer protection laws of more than 30 states, the District of Columbia and the Territory of Puerto Rico.

2. Defendants bring the present motion to facilitate the coordination and/or consolidation of these cases and to secure the just, efficient and least expensive determination of each of the pending cases. In all cases, plaintiffs allege, often with nearly identical language, the same factual basis for their claims—Defendants’ participation in crop protection product loyalty programs.

3. As set out in the table below, the first case was filed by the Federal Trade Commission (the “FTC”) and various states (together with the FTC, the “Government Plaintiffs”) in the Middle District of North Carolina (“M.D.N.C.”) on September 29, 2022. Since then, private plaintiffs have filed cases asserting the same or similar claims in both the M.D.N.C. and this District.

Case	Response Due	District	Plaintiffs	Defendants
<i>FTC v. Syngenta Crop Protection AG</i> , No. 22-cv-828-TDS-JEP	12/12/2022	M.D.N.C.	Federal Trade Commission, State of California, State of Colorado, State of Illinois, State of Indiana, State of Iowa, State of Minnesota, State of Nebraska, State of Oregon, State of Texas, State of Wisconsin	Syngenta Crop Protection AG; Syngenta Corporation; Syngenta Crop Protection, LLC; Corteva, Inc.
<i>Anderson v. Syngenta Crop Protection AG</i> , No. 22-cv-858-TDS-JEP	12/16/2022	M.D.N.C.	Charles Anderson, and all others similarly situated	Syngenta Crop Protection AG; Syngenta Corporation; Syngenta Crop Protection, LLC; Corteva, Inc.
<i>Croscut v. Syngenta Crop Protection AG</i> , No. 22-cv-899-TDS-JEP	12/16/2022	M.D.N.C.	Frederick C. Croscut, and all others similarly situated	Syngenta Crop Protection AG; Syngenta Corporation; Syngenta Crop Protection, LLC; Corteva, Inc.
<i>Jenkins v. Corteva, Inc.</i> , No. 22-cv-1976-RLY-DLP	12/16/2022	S.D. Ind.	Justin W. Jenkins, and all others similarly situated	Syngenta Crop Protection AG; Syngenta Corporation; Syngenta Crop Protection, LLC; Corteva, Inc.; CHS, Inc.; Nutrien Ag Solutions, Inc.
<i>Bradley Day Farms v. Syngenta Crop Protection AG</i> , No. 22-cv-02223-JMS-MG	Not yet served	S.D. Ind.	Bradley Day Farms, and all others similarly situated	Syngenta Crop Protection AG; Syngenta Corporation; Syngenta Crop Protection, LLC; Corteva, Inc.; BASF, SE;

Case	Response Due	District	Plaintiffs	Defendants
				BASF Corporation; BASF Agricultural Products Group; Nutrien Ag Solutions, Inc.; Helena Agri-Enterprises, Inc.
<i>Shelby Farms LLC et al. v. Syngenta Crop Protection AG</i> , No. 22-cv-02226-JPH-MJD	Not yet served	S.D. Ind.	Shelby Farms, LLC; Hanna Farms, LLC; G&P Farms Partnership, and all others similarly situated	Syngenta Crop Protection AG; Syngenta Corporation; Syngenta Crop Protection, LLC; Corteva, Inc.; BASF, SE; BASF Corporation; BASF Agricultural Products Group; Nutrien Ag Solutions, Inc.; Helena Agri-Enterprises, Inc.
<i>M and M Farms Partnership et al. v. Syngenta Crop Protection AG</i> , No. 22-cv-02227-JMS-TAB	Not yet served	S.D. Ind.	M and M Farms Partnership; Brick Farms, Inc., and all others similarly situated	Syngenta Crop Protection AG; Syngenta Corporation; Syngenta Crop Protection, LLC; Corteva, Inc.; BASF, SE; BASF Corporation; BASF Agricultural Products Group; Nutrien Ag Solutions, Inc.; Helena Agri-Enterprises, Inc.

Case	Response Due	District	Plaintiffs	Defendants
<i>HYS Farms LLC v. Syngenta Crop Protection AG</i> , No. 22-cv-02229-JMS-MPB	Not yet served	S.D. Ind.	HYS Farms, LLC, and all others similarly situated	Syngenta Crop Protection AG; Syngenta Corporation; Syngenta Crop Protection, LLC; Corteva, Inc.; BASF, SE; BASF Corporation; BASF Agricultural Products Group; Nutrien Ag Solutions, Inc.; Helena Agri-Enterprises, Inc.
<i>Danny Day, Jr. Farms et al. v. Syngenta Crop Protection AG</i> , 22-cv-02225-JMS-MJD	Not yet served	S.D. Ind.	Danny Day Jr. Farms; Danny Day Jr. and Son Farm Partnership, and all others similarly situated	Syngenta Crop Protection AG; Syngenta Corporation; Syngenta Crop Protection, LLC; Corteva, Inc.; BASF, SE; BASF Corporation; BASF Agricultural Products Group; Nutrien Ag Solutions, Inc.; Helena Agri-Enterprises, Inc.
<i>Chuck Day Farms Partnership v. Syngenta Crop Protection AG</i> , No. 22-cv-02222-JMS-MG	Not yet served	S.D. Ind.	Chuck Day Farms Partnership, and all others similarly situated	Syngenta Crop Protection AG; Syngenta Corporation; Syngenta Crop Protection, LLC; Corteva, Inc.; BASF, SE; BASF Corporation; BASF Agricultural Products Group; Nutrien Ag Solutions, Inc.; Helena Agri-Enterprises, Inc.

Case	Response Due	District	Plaintiffs	Defendants
<i>Scott Day Farms v. Syngenta Crop Protection AG</i> , No. 22-cv-02230-JMS-TAB	Not yet served	S.D. Ind.	Scott Day Farms, and all others similarly situated	Syngenta Crop Protection AG; Syngenta Corporation; Syngenta Crop Protection, LLC; Corteva, Inc.; BASF, SE; BASF Corporation; BASF Agricultural Products Group; Nutrien Ag Solutions, Inc.; Helena Agri-Enterprises, Inc.

4. Given the similar questions of law and fact raised in these cases, all of which are related and many of which are nearly identical, Defendants seek to have the cases coordinated and/or consolidated before the same court and judge, so as to ensure efficient, non-duplicative case management and to minimize the burden and expense of litigation for both the parties and the courts.

5. To that end, Defendants are filing a motion to transfer this action to the M.D.N.C., where the original lawsuit was filed by the Government Plaintiffs, two lawsuits have been filed by private plaintiffs, one of the manufacturer defendants is headquartered, and where all Defendants consent to proceed. Defendants intend to file similar motions to transfer, if necessary, in each of the other cases pending in the Southern District of Indiana, which are all nearly identical and were filed by the same cooperating attorneys.

6. By this motion, Defendants respectfully request that this Court (i) extend their time within which to answer, move or otherwise respond up to and including a date after disposition of Defendants' motion to transfer (to be set by the transferee court, if the motion to transfer is granted, or by this Court, if the motion to transfer is denied); and (ii) continue the initial pre-trial conference, currently set for December 6, and related Case Management Plan deadline of November 29, until after the disposition of Defendants' motion to transfer. Defendants are seeking similar extensions of their time to answer, move or otherwise respond to the complaints in the other cases.

7. Good cause exists for the requested relief because it will (i) allow time for the pending cases to be coordinated and/or consolidated; (ii) avoid the submission of duplicative answers and/or motions to dismiss, the need for which is nearly certain to be obviated by amended and consolidated pleadings; (iii) forgo an initial conference until all 11 cases (seven of which were filed in the last several days) are better coordinated and all defendants have been served and have retained counsel to represent them during Case Management Plan discussions with Plaintiffs and at the initial conference; (iv) conserve party and judicial resources; and (v) prevent any party from being advantaged or disadvantaged while the parties (and the courts) develop a plan to manage the cases.

8. This motion is made in good faith and not for the purpose of delay. No party to this proceeding will be prejudiced. On the contrary, all parties and the courts will benefit from coordination of the pending cases, which the relief requested by the present motion will facilitate.

9. Defendants have filed similar motions for an extension of time in which to answer, move or otherwise respond in *Anderson v. Syngenta Crop Protection AG*, No. 22-cv-858-TDS-JEP, and *Croscut v. Syngenta Crop Protection AG*, No. 22-cv-899-TDS-JEP, which were recently consolidated and concern the same factual issues as alleged this action. Plaintiffs in those actions have consented to Defendants' motions for an extension of time. To promote the efficient resolution of this action and to reduce the burden on the parties, this action should proceed on a similar schedule as these related actions.

10. The Court previously granted an unopposed joint motion for an extension of time to answer, move or otherwise respond to the Complaint, and extended the deadline to respond from November 1, 2022 to December 16, 2022. Dkt. 10; Dkt. 13. In view of the seven cases filed last week, the current deadline to answer, move or otherwise respond to the Complaint and date of the initial pre-trial conference will be insufficient to permit resolution of Defendants' transfer motion and to achieve the benefits of coordination and/or consolidation.

11. In sum, Defendants respectfully request that this Court (i) grant an extension of time within which to answer, move or otherwise respond up to and including a date after disposition of Defendants' motion to transfer; and (ii) continue the initial pre-trial conference until after the disposition of Defendants' motion to transfer.

12. The undersigned counsel for Defendants have consulted with counsel for Plaintiff, and Plaintiff's counsel confirmed that they do not consent to Defendants' requested relief.

13. Defendants respectfully request that the Court set an expedited briefing schedule for this motion, given that Defendants' answer, motion or other response is currently due by December 16 and the questions presented by Defendants' motion for an extension of time are straightforward.

Respectfully submitted this 22nd day of November, 2022.

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CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of November, 2022, I caused the foregoing UNOPPOSED JOINT MOTION FOR EXTENSION OF TIME TO RESPOND TO PLAINTIFF'S COMPLAINT, and all attachments thereto, to be filed electronically with the Clerk of Court via the Court's CM/ECF system. Counsel for all parties in this case, listed below, are registered CM/ECF users and will be served by the CM/ECF System:

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

JUSTIN W. JENKINS, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

CORTEVA, INC., et al.

Defendants.

CASE NO. 1:22-CV-1976

[PROPOSED] ORDER

Defendants Corteva, Inc., Syngenta Crop Protection AG, Syngenta Corporation, Syngenta Crop Protection, LLC, CHS Inc., and Nutrien Ag Solutions, Inc., by counsel, having filed a Motion for Extension of Time to Respond to Plaintiff's Complaint and Continuance of Initial Pre-Trial Conference, and the Court having considered said motion now grants the same.

IT IS THEREFORE ORDERED that Defendants Corteva, Inc., Syngenta Crop Protection AG, Syngenta Corporation, Syngenta Crop Protection, LLC, CHS Inc., and Nutrien Ag Solutions, Inc. be granted an extension of time such that Defendants' response to Plaintiff's Complaint [ECF 1] is now due on a date after this Court's disposition of Defendants' motion to transfer (to be set by the transferee court, if the motion to transfer is granted, or by this Court, if the motion to transfer is denied); and that the Case Management Plan deadline and initial pre-trial conference is adjourned until after the disposition of Defendants' motion to transfer.

This ____ day of November, 2022.

JUDGE, U.S. District Court